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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/737,471	12/18/2000	Pascal Albert Emile Lefebvre	Q62150	9352

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EXAMINER

HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
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2665

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,471

Applicant(s)

LEFEBVRE ET AL.

Examiner

Clemence Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Responsive to preliminary amendment received on December 18, 2000, amended claim 5 is entered as requested.

Information Disclosure Statement

2. An initialed and dated copy of Applicant's IDS form 1449, Paper No. 2, is attached to the instant Office action.

Drawings

3. The drawings are objected to because there are labels, NG and I₀, which are not taught in the specification. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided ("said network" in the last line).

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 3–5 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 3 recites the limitation "said data sink (DCSNK)" in line 2. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 4 recites the limitation "said data sink (DCSNK)" in line 2. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 5 recites the limitation "said network status" in line 2. There is insufficient antecedent basis for this limitation in the claim.

10. Claim 8 recites the limitation "Data source (DCSRC) according to claim 6" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 8, also, recites the limitation "said data-source (CSRC)" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 8, also, recites the limitation "said data source (DCSRC)" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 8, also, recites the limitation "said network status" in line 3. There is insufficient antecedent basis for this limitation in the claim.

11. Claim 9 recites the limitation "said network status" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

13. Claim 1, 2, 4 and 6–9 are rejected under 35 U.S.C. 102(e) as being anticipated by Lauffenburger et al. (US Patent 6,657,961).

In regarding to claim 1, Lauffenburger teaches a network status reporting method, for reporting in a communications network a network status to a data source (DSRC) 12 with an adaptive transmission rate in order to enable said data source (DSRC) 12 to adapt said transmission rate based on said network status, said communications network further containing at least one intermediate network node (INN) 16, and a data sink (DSNK) 14, CHARACTERISED IN THAT only said data sink (DSNK) 14 reports to said data source (DSRC) 12 on a status of said

communications network in its neighbourhood, and no intermediate network node (INN) 16 reports to said data source (DSRC) 12 on said network status of said communications network (Column 2 Line 26–34).

In regarding to claim 2, Lauffenburger teaches a communications network comprising at least one data source (DSRC) 12 with an adaptive transmission rate, at least one intermediate node 16 and at least one data sink (DSNK) 14, said data source (DSRC) 12 being able to adapt said transmission rate on the basis of network status information, CHARACTERISED IN THAT only said data sink (DSNK) 14 is able to report said network status information of said communications network in its neighbourhood to said data source (DSRC) 12 and no intermediate node is able to report network status information to said data source (DSRC) 12 (Column 2 Line 26–34).

In regarding to claim 4, Lauffenburger teaches said data sink (DSNK) as a network termination 22 in an access network of said communications network.

In regarding to claim 6, Lauffenburger teaches a data source (DSRC) 12 adapted to be used in the communications network according to claim 2 (Column 5 Line 10–22).

In regarding to claim 7, Lauffenburger teaches a data sink (DSNK) 14 adapted to be used in the communications network according to claim 2 (Column 4 Line 51-58).

In regarding to claim 8, Lauffenburger teaches a data source (DSRC) 12 adapted to request said data sink (DSNK) 14 to report to said data source (DSRC) 12 on said network status of said communications network (Column 5 Line 10-22).

In regarding to claim 9, Lauffenburger teaches a data sink (DSNK) 14 adapted to regularly report to said data source (DSRC) 12 on said network status of said communications network (Column 4 Line 51-58).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lauffenburger et al. in view of Cohen et al. (US Patent 6,404,861).

In regarding to claim 3, Lauffenburger teaches a communications network comprising at least one data source (DSRC) 12 with an adaptive transmission rate,

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at least one intermediate node 16 and at least one data sink (DSNK) 14, said data source (DSRC) 12 being able to adapt said transmission rate on the basis of network status information, CHARACTERISED IN THAT only said data sink (DSNK) 14 is able to report said network status information of said communications network in its neighbourhood to said data source (DSRC) 12 and no intermediate node is able to report network status information to said data source (DSRC) 12 (Column 2 Line 26–34). Lauffenburger, however, does not teach said data sink (DSNK) as a line termination in an access network of said communications network. Cohen teaches said data sink (DSNK) 252 as a line termination in an access network of said communications network. It would have been obvious to one skilled in the art to modify Lauffenburger to use a line termination as a data sink as taught by Cohen in order to use DSL technology (Column 6 Line 50–60).

In regarding to claim 5, Cohen teaches said network status information as a capacity of a link between a network termination 220 and line termination 252 in said access network of said communications network (Column 6 Line 64 – Column 7 Line 2).

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to the network status reporting in general.

U.S. Patent 6,011,777 to Kunzinger

U.S. Pub. 2002/0080722 to Uriu et al.

17. If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available,

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the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

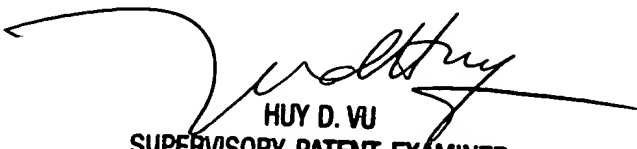
18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (703) 305-0372. The examiner can normally be reached on Monday-Friday 8 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (703) 308-6602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C. H.

Clemence Han
Examiner
Art Unit 2665


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SUPERVISORY PATENT EXAMINER
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